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לע"נ הרה"ח ר' נחמיה ב"ר שלמה אלימלך ז"ל
by his son, R' Shlomo Werdiger

STORYLINE

in his father's memory

By Rabbi Meir Orlian

Halacha Writer for the Business Halacha Institute

The shul was packed for Yizkor service. For Reuven Black, this year was particularly poignant; it marked the tenth Yahrzeit of his father.

People began calling out their Yizkor pledges, which were being dedicated to the shul: "Twice chai! Five hundred dollars! Ten times chai!"

Mr. Black straightened his tie and cleared his throat: "Ten thousand dollars in memory of the tenth yahrzeit of my father z"l." The astonished Gabbai beamed with delight and wished him a hearty "Yasher koach."

Two weeks later, Mr. Black served as chazan on the occasion of his father's Yahrzeit. Towards the end of leining, he expectantly prepared himself for Maftir. However, the Gabbai called out, "Ya'amod Shimon ben Moshe maftir," and Mr. Shimon Katz, who also had

yahrzeit that week, walked to the Torah...

Mr. Black was crestfallen. After such a donation to the shul, why had they not given him maftir? What a disgrace to his father's memory! Immediately after davening, he confronted the Gabbai. "Don't you remember my Yizkor pledge? Doesn't my father's memory deserve maftir for that?"

The Gabbai stammered, "I apologize. You had maftir last year, and I wrote down that this year Shimon should get maftir."

"Who cares?" protested Reuven, "I made a special donation to the shul this year to mark the tenth yahrzeit!" He raised his voice. "If the shul doesn't properly appreciate the donation, I'm going to give my money to a different charity!" He turned and left the shul.

The Gabbai waited a month. Gingerly, he approached Reuven. "I apologize if you feel

slighted," he said. "Nonetheless, you are required to honor your pledge to the shul."

Mr. Black paused for a moment. "I intend to honor the pledge in my father's memory - but not to this shul! It says in Gemara Arachin (6a) that if a person pledges money to charity, it is permissible to change it before it is handed over to the Gabbai."

The Gabbai was baffled; he would have to leave this for the rabbi.

Later that evening, Rabbi Dayan invited Mr. Black to his office. "The Shulchan Aruch (C.M. 204:7) writes that it is proper for a person to honor his verbal commitments to another, even if not legally binding, and you pledged to our shul."

Reuven, however, replied, "I feel no moral obligation to the shul after the disgrace to my father's memory by 'cheating' him of maftir."

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FROM THE BHI HOTLINE

Submitted by
A. B.

baggage claim

I traveled to Eretz Yisroel for Shavuos. Shortly after I arrived at my destination in Tzefas, I realized, to my dismay, that one of the bags I had with me was not mine. I had mistakenly taken a piece of someone else's luggage!

Using the information on the luggage tags, I finally managed to track down the owner of the suitcase. When I called him, I apologized, but he told me that he expected me to bring his belongings to his apartment in

Bnei Brak.

Q: Am I obligated to get the suitcase to Bnei Brak to return it to its rightful owner?

A: Taking this person's suitcase was an act of theft that obligated you to return the object to its owner.

Although some halachic opinions do not apply the obligations of a thief to an inad-

vertent theft (see Ketzos Hachoshen 25:1), you should have been more careful to confirm that you were taking only your own bag. The theft is therefore considered an act of negligence, and as such, the standard criteria of returning a stolen item apply, and it seems that you are obligated to return the suitcase to the owner.

However, Shulchan Aruch (C.M. 376:1) writes that a thief who is not in denial of his theft is not obligated to pursue the owner

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Rabbi Dayan calmly explained that maftir is a merit to the deceased because the son leads the community in the blessings of maftir and Haftarah. "You served as chazan, and saying Kaddish additional times was also a tremendous merit."

Mr. Black remained unimpressed. "Since the money hasn't been given to the Gabbai yet, I am legally allowed to change it to another shul."

"It's not so simple," responded Rabbi Dayan. "Although Tosfos first explains that before money reaches the Gabbai's hand, it is permissible to 'change' the pledge to a completely different purpose, they conclude that it is only permissible to 'exchange' the coins and use them temporarily until the charity is needed. Shulchan Aruch (Y.D. 259:1) cites the second interpretation."

Mr. Black remained adamant. "What's the difference whether I give to this shul or another; either way I'm giving the same kind of charity?"

Rabbi Dayan smiled. "You're raising a fascinating issue. Machane Ephraim (Tzedakah #7) and Ketzos Hachoshen (212:4) sug-

gest that it should be possible to give the charity to a comparable recipient. However, Radbaz (IV:1204) and Shach (C.M. 87:51) insist that you are required to give it to the person or shul to which you pledged, based on the principle of amiraso lagavoha kimsiraso l'hedyot - a pledge to the Almighty is tantamount to an act of transaction with a person, and is legally binding."

"Chasam Sofer (Y.D. #237) and Beis Yitzchak (Y.D. 82:13) write that most poskim require you to fulfill your pledge to the designated recipient," concluded Rabbi Dayan. "Therefore, I suggest that you give the money to the shul."

Mr. Black remained silent. Rabbi Dayan escorted him to the door and added softly, "Reuven, consider also that one of the greatest merits you can give your father is to follow in the footsteps of Aharon and avoid dispute."

"I'll think about it," said Mr. Black. A week later, Mr. Black handed the Gabbai a sealed envelope with a check for \$10,000 and a note: "In true merit for my father, I am enclosing my pledge and also ask forgiveness for having gotten angry with you."

to return the stolen property to him. The thief need only inform the owner that he has his object; the owner must retrieve the stolen property himself. According to Shach (367:2), those are the biblical limitations of his obligations, but Sema (376:2) says this is an enactment to make it easier for the thief to admit to his transgression, called takanas hashavim (see also Minchas Pitim (367). As such, it seems that you have no further obligations to the owner of the luggage.

However, your case calls for a more rigorous ruling. The above discussion relates to a scenario where the thief did not remove the theft to a place that would require the owner to travel and pick it up, whereas you removed the luggage to another city that forces

the owner to spend time and money to take it back. In fact, Shach (386:5) states explicitly that it is the thief's duty to return the theft to the place that he stole it from (see Aruch Hashulchan (367:1).

As such, you are obligated to return it to the airport you took it from.

It should be noted that the Nesivos Hamishpat (232:10) applies takanas hashavim even if the thief took the stolen property to a distant location and does not obligate the thief to return it to the place that he stole it from. However, many opinions disagree with this ruling (see Minchas Pitim 367:1 and Shach and Aruch Hashulchan ibid).

Thus, the proper halachic obligation on your part is to return the suitcase to the airport you removed it from.

Please contact our confidential hotline with your questions & comments

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MONEY MATTERS

laws of interest week #2

Q: I lent with interest before I was aware of the prohibition. What should I do now?

A: A person who lent with interest may not collect it, even if the borrower says he is giving the interest as a gift. This applies even to interest prohibited by the Sages (Y.D. 160:5; Shach 160:6). If the lender already collected the interest, there is a difference between ribbis prohibited by the Torah and that pro-

hibited by the Sages. There is an obligation to return ribbis prohibited by the Torah – a loan with guaranteed interest (ribbis ketzutzah) – even if the borrower willingly gave the interest. There is even legal recourse through Beis Din to force the lender to return the interest (Y.D. 161:5; Pischei Teshuva 161:5). If the borrower decides to forgo (mochel) the interest that he paid, though, his decision is valid, like with any other theft

(Y.D. 160:5). If the lender earned a significant portion of his livelihood through ribbis and repents of his own accord, it is even recommended to forgo the interest, so as not to dissuade him from repentance (Y.D. 161:7). However, if the ribbis was prohibited by the Sages, Beis Din will not enforce returning the interest, but there is a moral obligation to return it according to most authorities (Y.D. 161:2; Pischei Teshuva 161:4).

IMPORTANT NOTICE

"Early Bird Specials" often involve serious ribbis (interest) issues.

This is especially true with day camps that offer perks or discounts for early payment.

For more information and to discuss your options for rectifying a halachically problematic situation, please speak to your Rav, or you may contact our Business Services Division at:
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